

Senate Resolution 822

By: Senators Shafer of the 48th, Mullis of the 53rd, Reed of the 35th, Pearson of the 51st, Smith of the 52nd and others

AS PASSED

A RESOLUTION

Correcting the Georgia-Tennessee and Georgia-North Carolina boundaries; and for other purposes.

WHEREAS, the northern border of the State of Georgia and the southern border of the State of Tennessee and North Carolina lies at the 35th parallel, north of the southernmost bank of the Tennessee River; and

WHEREAS, a flawed survey conducted in 1818 and never accepted by the State of Georgia erroneously marks the 35th parallel south of its actual location; and

WHEREAS, over a long period of years, from time to time, the legislatures of both states have undertaken to authorize the appointment of committees and many other measures for the purposes of resolving the issues associated with the wrongly surveyed and erroneously marked border; and

WHEREAS, by an Act of the General Assembly of North Carolina, approved in 1881 (N.C. Gen. Stat. 141-1 to 6 (1964)), the General Assembly of North Carolina authorized the Governor of North Carolina to appoint commissioners and a surveyor from North Carolina to act with the commissioners and surveyors appointed or to be appointed by any of the states contiguous to North Carolina to resurvey and mark the boundary lines between these states; and

WHEREAS, no official record of any such commissioners and surveyors as provided for in said Act exists; and

WHEREAS, by an Act of the Tennessee General Assembly, approved October 30, 1819, which attempted to ratify the flawed 1818 survey, provided "that this act shall take effect and

be in force so soon as the state of Georgia shall have passed a law similar in its provisions." Since Georgia has never passed such a law, Tennessee's own ratification is ineffective; and

WHEREAS, by an Act of the General Assembly of Georgia, approved October 15, 1887 (Ga. L. 1886-87, p. 105), the General Assembly of Georgia directed the Governor to communicate with the Governor of Tennessee for the purpose of having a joint survey and settlement of the disputed boundary question and authorized the appointment of a committee to meet with an assembly committee representing the State of Tennessee, whose duty it would be to survey, establish, and proclaim the true boundary line; and

WHEREAS, by an Act approved April 8, 1889 (H.B. 749), the General Assembly of the State of Tennessee made a similar legislative finding and enacted a similar authorization expressing "grave doubts" as to the location of the state line between Georgia and Tennessee; and

WHEREAS, in July of 1891, Governor William J. Northern of Georgia wrote Governor J. P. Buchanan of Tennessee enclosing a copy of Georgia's 1887 Act and drawing attention to the fact that it was in the interest of the citizens of both states that the Governors cooperate in definitively determining the boundary; and

WHEREAS, after receiving no reply, Governor Northern again wrote Governor Buchanan of Tennessee in December of 1891, to no avail; and

WHEREAS, after a third letter, to which there was no response, Governor Northern appointed three Georgia commissioners, who were not met with like commissioners, as prescribed by the 1889 Tennessee Act; and

WHEREAS, by a resolution approved December 21, 1897 (1897 Ga. L., p. 595), the Georgia General Assembly reiterated "great uncertainty concerning the true northern boundary of this State," and appointed W. A. Wimbish to make a study of all documents and reports dealing with the boundary matter; and

WHEREAS, by a resolution approved December 20, 1898 (Ga. L. 1898, p. 402), the Georgia General Assembly approved the creation of a "joint tribunal" to consist of three judges or

commissioners each from the States of Georgia, Tennessee, and North Carolina for the purposes of resolving the border dispute; and

WHEREAS, neither Tennessee nor North Carolina cooperated in the tribunal; and

WHEREAS, on April 15, 1905 (S.B. 513), the Tennessee General Assembly passed legislation similar to that of 1889, again expressing "grave doubts" as to the Georgia-Tennessee boundary; and

WHEREAS, by a resolution approved August 17, 1906 (Ga. L. 1906, p. 1160), the Georgia General Assembly passed another resolution disputing the location of the line between the two states which authorized the Governor of Georgia to confer with the Governor of Tennessee; and

WHEREAS, by a resolution approved August 19, 1916 (Ga. L. 1916, 1042), the Georgia General Assembly passed a resolution calling for a resurvey of the eastern end of the Georgia-Tennessee boundary; and

WHEREAS, on August 16, 1922 (Ga. L. 1922, p. 1139), the Georgia General Assembly passed a similar resolution calling for the resurvey of the western end of the Georgia-Tennessee boundary; and

WHEREAS, by a resolution approved March 6, 1941 (Ga. L. 1941, p. 1850), the General Assembly directed the Governor of Georgia to communicate with the Governor of Tennessee for the purpose of having a joint survey and settlement of the disputed question and further resolved that a standing committee of the House of Representatives be created to meet with a similar committee of the State of Tennessee to establish, survey, and proclaim the true boundary line between Georgia and Tennessee; and

WHEREAS, by a resolution approved March 27, 1947 (Ga. L. 1947, p. 1728), the General Assembly appointed a commission to negotiate with the proper authorities of the State of Tennessee and to agree upon and to fix a definite boundary line, and, in the failure of the commission to reach a settlement, the General Assembly authorized and directed the Attorney General of the State of Georgia to institute suit in the federal courts for purposes of accurately determining the boundary line between Georgia and Tennessee; and

WHEREAS, by a resolution approved March 6, 1971 (Ga. L. 1971, p. 2374), the General Assembly directed the Governor of Georgia to communicate with the Governors of North Carolina and Tennessee for the purpose of having joint surveys and settlements of the disputed boundary questions and further resolved that a Georgia-North Carolina and Georgia-Tennessee Boundary Line Commission be created to meet with similar commissions of the legislatures of the states of North Carolina and Tennessee to establish, survey, and proclaim the true boundary lines between Georgia and North Carolina and between Georgia and Tennessee, and to take such further or other action or pursue such remedy or remedies as the joint Commission of the Georgia General Assembly, by a majority vote, deems proper to establish the definite and true boundary lines between Georgia and North Carolina and Georgia and Tennessee; and

WHEREAS, by suggestion of the United States Court of Appeals for the D.C. Circuit, the Chairman of the Tennessee Public Service Commission and the Chairman of the Georgia Public Service Commission agreed in 1974 to reserve resolution of the general boundary issue until a later date (15 FERC, p. 61240), the resolution of which has never been reached; and

WHEREAS, notwithstanding these authorizations and directions, the boundary lines have never been accurately resurveyed and marked and remain in doubt; and

WHEREAS, it is to the public interest and welfare that accurate and exact lines between the said states be established and proclaimed.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Governor of Georgia has the full support of the General Assembly and is hereby strongly urged to initiate negotiations with the Governors of Tennessee and North Carolina for the purpose of correcting the flawed 1818 survey erroneously marking the 35th parallel south of its actual location and to officially recognize the State of Georgia's northern border with the States of Tennessee and North Carolina as the precise 35th parallel as was intended when both states were created. The Governor of Georgia shall have the authority to negotiate settlement of the issue for the State of Georgia which shall be binding upon the State with the approval of such agreement by the General Assembly.

BE IT FURTHER RESOLVED that should the Governor of Georgia's negotiations with the Governors of Tennessee and North Carolina fail to come to any resolution to the issue of the disputed boundary between the two states, then the Attorney General of Georgia is authorized to take the appropriate legal action to correct Georgia's northern border at the 35th parallel. Such legal action by the Attorney General of Georgia includes, but is not limited to, initiating suit in the United States Supreme Court against either or both of the States of Tennessee and North Carolina for final settlement of this boundary issue.

BE IT FURTHER RESOLVED that it is the clear and express intent of the General Assembly to correct, establish, survey, and proclaim the northern border of the State of Georgia and the southern border of the States of Tennessee and North Carolina at the true 35th parallel.